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SCHOOL CONSTRUCTION IN MAINE

A Report to the
Joint Standing Committee on Education

Submitted by the
Department of Education

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BACKGROUND

Initiation of the Report

The 116th Legislature included in its budget bill a request for an analysis of the State's school construction program.

Part ZZZ

Section ZZZ-2. School construction report. The Department of Education shall submit to the Joint Standing Committee of Education, on or before January 1, 1994, a report on school construction that must include an analysis of the following:

1. Construction costs;
2. Service costs, including state and local permitting fees;
3. Movable equipment costs; and
4. Site development costs, including cost for local land acquisition.

The report must include proposals, including any necessary legislation, for reducing the cost of school construction in this State.

This report is submitted in response to that request.

Analysis Procedures

All applicable statutes and rules were reviewed as the first step in analyzing Maine's school construction program. A summary of that review constitutes the first section of the report. A review of administrative procedures used in determining each of the costs identified in the Legislative request was then conducted and constitutes the second section of the report. The third section of the report includes a review of actions taken during the past three years to reduce school construction costs.

**SCHOOL CONSTRUCTION
STATUTES AND RULES**

Maine State Statutes

Two major sections of Maine State law address school construction. The School Finance Act of 1985 (Title 20-A M.R.S.A. §§15603-15621) identifies the mechanism by which school construction is funded. Stated briefly, school construction is funded through the issuance of bonds by local school units. The debt service (principal and interest) incurred through the issuance of school construction bonds is subsidized by the State using a formula described in Title 20-A M.R.S.A. §15611, which divides the debt service into a local and state share. Title 20-A M.R.S.A. §15611 establishes a "circuit breaker," which limits the local share of the debt service allocation and commits the State to subsidize the difference between the local share of allocation and the school administrative unit's total debt service costs. (See Appendix A for applicable sections of the School Finance Act of 1985)

The second section of Maine State law which addresses school construction is Title 20-A M.R.S.A. §§15901-15916. This section defines a school construction project, identifies the approval process at both the state and local levels, sets the legislative limit on annual debt service costs, and authorizes the State Board of Education to adopt and amend rules relating to school construction. (See Appendix B: Title 20-A M.R.S.A. §§15901-15916)

The legislatively set limit on annual debt service costs represents the accumulated debt service (principal and interest costs) of all school construction to be subsidized by the State during a particular year. For example, the limit would include the last principal and interest costs of a bond issued nineteen years previously on a twenty-year bond as well as the principal and interest costs of a bond issued the previous year. It would also include the estimated debt service for projects expected to be bonded during the current fiscal year, if there will be principal and/or interest payments due during the current fiscal year.

Title 20-A M.R.S.A. §15905. 1. A. requires the Legislature to establish, before March 1st of its second regular session, the maximum debt service limits for the next biennium for which debt service limits have not be set. The maximum debt service limit has been established at \$67,000,000 through FY 1996. The Commissioner of Education has recommended a maximum debt service limit of \$69,000,000 for FY 1997 and FY 1998.

School construction projects which include less than 600 square feet of new space and non-State funded projects (including locally funded projects) are not included in the

legislatively set debt service limit. Also excluded are local funds added to State subsidized projects for which State subsidy is not approved. For example, if a school administrative unit wanted to add space to an elementary school multi-purpose room to accommodate adult basketball, the cost of constructing the additional space would be a local cost and not subsidized by the State.

Rules for School Construction Projects

The State Board of Education, consistent with its statutory authority, has adopted rules relating to school construction in Maine (Chapter 61: "Rules for School Construction Projects"). State Board rules define the conditions under which the State will subsidize school construction projects and include criteria in the following areas:

1. An application and approval process;
2. Three funding program categories with different application time frames;
3. Application rating systems for each of the three programs which establish priorities in funding decisions;
4. Recommended space allocations for various instructional and non-instructional areas of a school;
5. An administrative review process for resolving disputes involving the rating of school construction applications;
6. Specific criteria for the inclusion of art projects in school construction budgets;
7. Minimum and maximum site sizes for elementary, middle/junior high and high schools; and
8. The financing of school construction projects, including bonding procedures.

The State Board's rules also establish a Special Priority List for the Regular and Special Project programs. The Special Priority List consists of up to nine school construction projects, three of which may receive the Department's recommendation for concept approval for each of the next three years ahead of any higher rated new project application.

The standards and procedures established in Chapter 61 by the State Board of Education identify the school construction costs which can be included in the budget of a school construction project for purposes of debt service subsidy. Since by statute the acquisition of land to support an addition or a new building is an allowable cost in a proposed school construction project, State Board rules specify the procedure used to establish the amount of land acquisition costs to be included in the budget. The proposed land must be appraised by two appraisers and the average of the appraised values is used to establish the approvable amount. If the

lower of the two appraisals varies from the higher by more than twenty-five percent, a third appraisal is required and the average of the three appraisals becomes the appraised value. Appraisal costs vary with individual appraisers, but generally fall within a \$100 to \$2,500 range per appraisal. Any land purchased for a school construction project, or in anticipation of a future school construction project, must be presented to the State Board for site approval at least two months prior to concept approval in order to establish the cost of land acquisition which can be included in the project budget. (See Appendix C for Chapter 61:"Rules for School Construction Projects")

Not every project includes land acquisition and actual land acquisition costs vary from project to project. Factors which influence the land acquisition costs include the urban versus suburban/rural location of the land (urban land is generally higher in cost), amount of land to be acquired, geographic location within the state (land is generally higher priced in the southern and central part of Maine than in the northern, western and eastern parts of the state).

State Board rules include minimum and maximum site sizes necessary to support the educational program at the elementary, middle/junior high and high school levels.

<u>Level</u>	<u>Minimum</u>	<u>Maximum</u>
Elementary	5 acres plus 1 acre for each 100 students	20 acres plus 1 acre for each 100 students
Middle/Junior High	10 acres plus 1 acre for each 100 students	25 acres plus 1 acre for each 100 students
Secondary	15 acres plus 1 acre for each 100 students	30 acres plus 1 acre for each 100 students

Department of Education Administrative Procedures

The Department of Education's administrative responsibility for the school construction program is located in the Division of School Business Services, which includes the school facilities, transportation and driver education, and school nutrition programs. The school facilities program is staffed by the Director, and a specialist and secretary shared with the transportation and driver education program.

Applications for school construction projects are submitted to the Division of School Business Services by school administrative units within the three program time frames

established by State Board rule. Division staff conduct an on-site visit prior to rating each application, using the State Board's rating system. Applications are placed in order from highest to lowest scoring and projects to be recommended to the State Board for concept approval consideration and placement of the Special Priority List are identified. State Board rules also provide for an appeal of the ratings through an Administrative Review. The Administrative Review is conducted by the Commissioner or designee and two Department staff from outside the Division of School Business Services who are appointed by the Commissioner. The letter of findings resulting from the Administrative Review, by rule, constitutes final agency action.

The amount of debt service available to fund projects in the fiscal year in which projects are expected to be bonded is then determined by subtracting the outstanding bonded indebtedness and the estimated indebtedness of approved, unbonded project from the legislative debt service limit. The number of projects to be recommended for concept approval by the State Board is determined by estimating the cost of each project (beginning with the three projects on the Special Priority List) and selecting the next highest rated projects from the list until the available debt service limit is reached. School administrative units with recommended projects are notified and planning begins with completion of the Educational Specifications and Space Allocation Workbook and the hiring of a designer. (See Appendix D for Education Specifications and Space Allocations Workbook)

Each project to be recommended to the State Board for concept approval requires a minimum of two conferences with Division of School Business Services staff. The Program Conference includes a discussion of the Education Specifications and Space Allocation Workbook and results in an agreement on the amount of space to be included in the project. The Concept Conference includes a review of the school administrative unit's proposed "footprint" of the addition or new building (the design showing size and location of specific educational program spaces) and the estimated budget of the project. Assistance from the Bureau of General Services and the Division of School Business Services is often requested during the development of the project, and may result in additional meetings with Division staff. The budget format used for each project has been developed by the Bureau of General Services. The Bureau also provides school administrative units and the Division with guidelines for securing architectural and engineering services.

One of the responsibilities of Division staff during the planning process is to ensure the most efficient use of space within the building and that costs are reasonable and consistent from one project to another. The information in the Education Specifications and Space Allocation Workbook is

the basis for decisions concerning efficient use of space within the building. Department of Education program consultants, especially in the areas of technology education, special education, school food services and library/media services, also review the plans to offer recommendations concerning utilization of space and other programmatic issues pertaining to the proposed facilities. Experience with other projects and consultation with the Bureau of General Services and with industry representatives, such as the Association of General Contractors, are generally the basis for decisions concerning the reasonableness of proposed budgets and for ensuring consistency from one project budget to another.

All plans are reviewed by the Bureau of General Services, to ensure compliance with State building codes, by the Fire Marshal's Office, for compliance with Life Safety and state handicapped accessibility codes, and by the Department of Human Services (Division of Health Engineering), for drinking water and waste water disposal regulation compliance. Plans are reviewed by the Department of Environmental Protection and the Department of Transportation when the proposed projects fall within their respective statutory jurisdictions. Occasionally plans are reviewed by the Army Corps of Engineers when specific federal jurisdiction is involved. Three of the State agencies charge a fee for reviewing school construction plans:

Fire Marshal's Office:

1. Life Safety Code Review - fees range from \$50 (projects under \$20,000) to \$450 (projects over \$3 million)
2. Barrier Free Construction Review - fees range from \$25 (projects under \$100,000) to \$250 (projects over \$2 million)
3. Fire Sprinkler Construction Review - fees range from \$50 (sprinkler systems under \$5,000) to \$750 (sprinkler systems over \$1 million)

Department of Human Services, Division of Health Engineering

Plumbing Plan Review - \$20 fee for preliminary plan review, \$40 fee for final plan review

Department of Environmental Protection

Site Plan Review - \$6,000 fee for natural resources review

The fees cited above do not reflect the time, and concomitant costs, of collecting information and preparing the application material for submission to the appropriate agencies. Those costs are usually incurred by the designer in the execution of the architectural/engineering responsibilities of the contract. This can result in several thousands of dollars added to the project budget, especially when several different

applications must be submitted.

In addition to the State agencies listed above, some municipalities require a school construction project to be presented to and approved by local planning commissions or boards. Often there is a filing fee associated with these requirements which can add \$100 to \$300 to the project budget.

Each school administrative unit proposing a school construction project is required by State Board rule to hold two public hearings prior to presentation to the State Board for concept approval. The first public hearing follows notification by the Department of Education that the proposed project is to be recommended to the State Board, and is intended to formally alert the residents of the community(ies) of the pending project development. The second public hearing follows the Concept Conference (and prior to concept approval consideration by the State Board), and is intended to present to the community(ies) the proposed design of the addition or building and the estimated project budget. Non-binding straw votes are required at each public hearing.

Written material describing each recommended school construction project is prepared by the Department of Education and presented to the State Board for concept approval. Oral presentations are made by representatives of the school administrative unit and the designer. Concept approval is granted by the State Board, in accordance with statutory language which defines concept approval as "...the initial approval of a school construction project by the state board which indicates:

- A. Acknowledgement of the local need;
- B. Approval of the preliminary design;
- C. Approval of the estimated costs; and
- D. The state board's intent to issue final approval subject to a favorable local vote and approval of final cost estimates."

(Title 20-A M.R.S.A. §15901. 1.)

Every school construction project is required to be presented to local voters in referendum within five months of the State Board granting concept approval. A simple majority is required to approve the proposed project. Occasionally, when a proposed project is defeated in local referendum, a second referendum is held, at the discretion of the local governing authority. Unless granted a time waiver by the State Board, the second referendum must take place within the five month time frame. Results of the favorable local referendum are presented to the State Board at funding approval. Funding approval is the action of the State Board which commits State funds to the project. Funding approval, in accordance with State Board rule, must be requested within nine months of the favorable local referendum vote. If a proposed project

receives State Board concept approval and is defeated in local referendum, the costs incurred by the school administrative unit (such as designer fees, surveying and soil testing costs, land appraisal fees) are not subsidizable and become a local school administrative unit cost.

Contracts for designer and construction services are reviewed and approved by the Bureau of General Services, under Title 5 M.R.S.A. §§1741-1751. Sections of Title 32 M.R.S.A., relating to the certification and registration of architects and engineers, are applicable to school construction projects under the definition of "public improvements" and are enforceable by the Bureau of General Services. State Board of Education rules require that a general construction contract be signed within nine months of funding approval.

Once a construction contract has been signed, the school administrative unit has primary responsibility for the project. Department of Education and Bureau of General Services staff must approve all change orders to the construction contract. Change orders are owner and/or designer requests for changes in the general construction specifications which result in an addition to the contractor's costs and, therefore, additional costs to the project budget. Bureau of General Services staff review the change order for technical consistency and project applicability, and Department of Education staff review for budget applicability. All change orders require the approval of the owner (school unit superintendent or designee), the architect, the contractor, the Bureau of General Services and the Department of Education.

Each project budget includes a line item for movable equipment, equipment needed in the addition or new building to support the educational program of the school. School administrative unit staff submit a movable equipment list to the Department of Education for its review and approval following funding approval. The general definition of movable equipment used by the Department of Education is equipment purchased separate from the general construction contract and identified by its life expectancy (at least five years) and extraordinary cost (usually more than \$500). Examples of movable equipment are furniture, computers, kitchen equipment and snow removal/lawn mowing equipment.

School administrative units often borrow funds in anticipation of issuing bonds to support the initial costs of the construction project. School administrative units are responsible for the bonding of school construction projects. The Commissioner of Education must approve the timing of the sale of bonds in order to control the impact of the debt service subsidy on the State budget. State Board rules regulate the investments of note and bond proceeds. Interest earned on the investment of note or bond proceeds are returned

to the State, except under specific conditions described in the State Board rules.

Following completion of the school construction project and occupancy by the school administrative unit, the project costs are audited by the Department of Education's Division of Finance. State Board rules allow interim audits, which are also conducted by the Division of Finance. Interim audits are generally used to recover interest earned on the note or bond investments.

REDUCTION OF SCHOOL CONSTRUCTION COSTS

Action taken over the past three years

The Department of Education and the State Board of Education have taken the following actions in the last three years to reduce the cost of school construction to the State:

1. Reduction in Department staff - In January 1993, two staff positions were eliminated from the Division of School Facilities, reducing the staff to the Director and a secretary shared with the transportation and driver education program. In July 1993 the Division of School Facilities and the Division of Transportation and Driver Education were combined.
2. Land cost ceiling - In January 1993 the State Board of Education revised the "Rules for School Construction Projects." Included in those revisions was a provision that the cost of land exceeding the maximum site size would be an entirely local cost.
3. Investment of bond proceeds - The January 1993 revisions also included a clarification of investment of bond proceeds, designed to ensure the security of invested funds.
4. Space allocation tied to education programs - The January 1993 revisions strengthened the Department and State Board's requirement that the allocation of space in a school construction project be directly based on the educational program of the school.
5. Interim audits - The January 1993 revisions instituted interim project audits by the Department of Education.

Conclusion

The school construction process in Maine is established by statute, under the regulatory authority of the State Board of Education, and the administrative responsibility of the Department of Education. The process begins with the local

identification of need and includes administrative procedures for setting priorities for projects seeking state subsidy. The project approval process involves many different state and local agencies and individuals, including local voters who must commit local funds at referendum. Cost containment is achieved through this multi-level review and approval. The desired result is to build schools which are designed to meet the educational needs of communities for the next thirty to fifty years.